

MINUTES OF THE BOARD OF ADJUSTMENTS MEETING HELD SEPTEMBER 8, 2005 AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS.

Members Present: Ferrell Jensen, James Holtkamp, Debbie Tyler, Paul Throndsen, James Adinaro, Noor Ul-Hasan

Staff Present: City Planner Michael Black, City Attorney Shane Topham, Deputy Recorder Sherry McConkey

Others Present: David Harrison, Richard Taylor

Chair Jensen called the meeting to order

1. 0 **Public Comment**

No public comment was given.

2.0 **Richard Taylor – 3744 East Prospector Circle – Front and Side Yard Setback Variance**

- 2.1 Mr. Black explained that Mr. Taylor has applied for a variance with the city. The variance request is for a change in the front yard setback from 25 feet to 15 feet and a side yard setback from 10 feet to 7 feet on each side. The applicant applied for this variance due to the steepness of the lot. Staff recommended the front yard setback be approved and the side setback be denied based in the findings listed in the staff report dated September 8, 2005.

Note: The main door to the building was checked three times to verify that the doors were open for the public to enter. City Attorney Shane Topham and Deputy Recorder Sherry McConkey personally checked the doors at the following times:

Door check times: 6:47 p.m.

7:01 p.m.

7:08 p.m.

- 2.2 Chair Jensen opened the public hearing.
- 2.3 Chair Jensen addressed the applicant Mr. Taylor, and asked if he had any comments on staff's report. Mr. Taylor stated he agreed with staff's recommendations.
- 2.4 Chair Jensen addressed Mr. David Harrison, and noted that he and the applicant were the only two members of the public in attendance. Mr. Harrison stated that he came to this hearing because it was being re-heard and that he agreed with the staff's recommendation.
- 2.5 Chair Jensen closed the Public Hearing.

- 2.6 **Motion:** Mr. Adinaro moved that the board approve the front set back variance and not the side set back variance based on the findings listed in the staff report dated September 8, 2005, which state:

- (1) Literal enforcement of the Zoning Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.*

Literal enforcement of the R-1-8 ordinance, specifically the front setbacks, would, in this case, cause an unreasonable hardship on this applicant. By reducing the front setback to 15', the board believes that the intent of the general purposes of the land use ordinances are still being followed, and this applicant will be able to locate a home on his lot, where otherwise he would not.

- (2) There are special circumstances attached to the property that do not generally apply to other properties in the same district.*

The board finds that in the case of this variance, there are special circumstances that do not apply generally to the R-1-8 zoning district. The lot being considered in this application is unique due to its relationship with fault lines, and an extremely steep hillside dropping off the rear of this property. We believe this case is specific, and not general to the entire zone.

- (3) Granting the variance is essential to the enjoyment of a substantial property right possessed by other people in the same district.*

The board also finds that denying this applicant's variance request would, in the boards' opinion, deny this resident of a substantial property right enjoyed by others in the same zone. Without this variance, the applicant will be unable to build a home of similar size, quality, and appeal as others in the same zone.

- (4) The variance will not substantially affect the General Plan and will not be contrary to the public interest*

In addition, the board finds that granting this variance will not substantially affect the general plan, and will not be contrary to the public interest. This area is already zoned R-1-8. It has already been subdivided for residential single-family lots. Granting this applicant the ability to build a house similar to those already constructed in the area will not affect the general plan due to the fact the general plan has already designated this areas as low-density residential as it is developed.

(5) The spirit of the Zoning Ordinance is observed and substantial justice done.

Finally, the board finds that if this applicant receives a variance for a front yard setback, he will be able to build a home of similar size and quality as others in the R-1-8 zone. The spirit of the land use ordinances of the city of Cottonwood Heights will not be jeopardized as this situation is very specific, and does not affect others in the R-1-8 zone, which represents 57% of the residentially zoned areas in the City.

2.7 Mr. Adinaro re-iterated that this motion is to approve the front set back variance request and not the side.

2.8 Chair Jensen stated a motion has been made to approve the front set back variance and to deny the side set back variance.

2.9 Motion was seconded by Mr. Throndsen and carried by 100% approval.

3.0 **Review of Board of Adjustment Policies and Procedures**

3.1 Chair Jensen moved to recommend approval of the Board of Adjustments Policy and Procedure to the City Council. The motion was made by Mr. Holtkamp and seconded by Ms. Tyler. Motion carried by 100 % of voice vote and no opposing votes.

4.0 **Community Development Directors Report**

4.1 Mr. Black mentioned the minutes would be sent out for approval.

5.0 **Approval of Minutes**

5.1 No minutes at this time.

Chair Jensen wanted the record to show that this is the second meeting on this issue and the Board was cognizant that a resident was unable to make comments at the first hearing and did everything possible to insure the community an opportunity to have their voices heard.

7.0 **Adjournment**

7.1 **Motion:** Motion to adjourn made by Mr. Throndsen and seconded by Mr. Adinaro. The Board of Adjustments meeting adjourned at 07:16 p.m.

Approved: 12-15-05